

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ABINGDON DIVISION**

**UNITED STATES OF AMERICA, )**

Plaintiff, )

Case No: 1:04cr00093-001

)

v. )

**ORDER**

)

**RICHARD DWAYNE ALLISON, )**

Defendant. )

By: GLEN M. WILLIAMS

Senior United States District Judge

This case is currently before the court on remand from the United States Court of Appeals for the Fourth Circuit to determine whether good cause or excusable neglect exists to justify granting Richard Dwayne Allison an extension of time for filing his notice of appeal. The case was referred, pursuant to 28 U.S.C. § 636(b)(1)(B), to the Honorable Pamela Meade Sargent, United States Magistrate Judge. On November 20, 2009, the Magistrate Judge entered a report and recommendation, (Docket Item No. 19), (“the Report”), recommending that the court grant the defendant an extension of 30 additional days to file his notice of appeal. Objections to the Report were due by December 11, 2009; however, no objections were filed. As such, the Magistrate Judge’s Report shall be **ACCEPTED**.

Accordingly, for the reasons set forth in the Magistrate Judge’s Report, the court finds that good cause exists for the defendant’s failure to file his notice of appeal within the standard 10-day period; thus, the defendant shall be **GRANTED** an extension of 30 additional days to file his notice of appeal. The court notes that the defendant filed a notice of appeal within the 30-day excusable neglect or good cause period, which should be treated as the defendant’s timely filed notice of appeal.

The Clerk is directed to enter this Order and send copies of this Order to all counsel of record.

ENTER: This 15<sup>th</sup> day of December 2009.

/s/ Glen M. Williams  
SENIOR UNITED STATES DISTRICT JUDGE